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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MOHAMUD MOHAMED,

11 Plaintiff,

12 v.
13 NORTHERN VICTOR F/V, et al.,

14 Defendants.

15 ORDER

16 CASE NO. C05-2019JLR

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18 This matter comes before the court on Defendants' motion to amend their answer
19 to add a counterclaim (Dkt. #16). For the reasons stated below, the court GRANTS the
20 motion.

21 Defendants seek leave to amend their answer in order to allege that Plaintiff
22 intentionally concealed a preexisting medical condition, which they contend entitles them
23 to reimbursement of maintenance and cure payments already paid. The court notes that
24 in order to prevail on such a claim, Defendants must show that Plaintiff concealed a
25 medical condition that he knew or should have known was related to the injury for which
26 he requested maintenance and cure. See Omar v. Sea-Land Serv., Inc., 813 F.2d 986, 990
27 (9th Cir. 1987). Notwithstanding this relatively high standard of proof, the court must
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ORDER – 1

1 consider Defendants' motion against the liberal standard for granting leave to amend
2 under the federal rules. Against this backdrop, the court concludes that Defendants'
3 motion is timely and that Plaintiff has not met his burden to show undue prejudice.
4 Lastly, although the court strongly suspects that additional discovery is unnecessary,
5 Plaintiff is free to move to reopen discovery and seek relief from the court's scheduling
6 order if he can provide a basis for doing so.
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8 For these reasons, the court GRANTS Defendants' motion to amend their answer
9 to add a counterclaim. Defendants should file their amended answer no later than
10 October 13, 2006.

11 Dated this 10th day of October, 2006.
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15 JAMES L. ROBART
16 United States District Judge
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